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Webster Lee, held in prison for three years for shooting, has murder charges droppedBY Thomas Zambito
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Hans Neleman/Getty, Getty

A Judge Tuesday tossed out murder charges against a Queens man held nearly three years for a street-corner shooting he insists he didn't commit.

Queens Supreme Court Justice Ronald Hollie dismissed the charges against **Webster Lee** after prosecutors said they couldn't find a key witness to the January 2008 shooting.His lawyer, Robert DiDio, says Lee may sue the city to compensate him for the 34 months he spent on **Rikers Island**.

"He's in the process of rebuilding his life after being torn from his family for three years," DiDio said. "He's bitter about his experience. He's trying to understand why this happened and how he could lose these years of his life."

Lee, 39, was busted on Jan. 29, 2008, for gunning down **Darkim Spellman**, 23, outside Sutphin Cocktail Lounge in **Jamaica**.

Lee was held until Nov. 30, 2010, when Hollie agreed to his lawyer's request to release him on bail.

Hollie yesterday set Lee free.

DiDio repeatedly pressed Hollie to release Lee by claiming his constitutional right to a speedy trial had been violated.

He accused prosecutors of dragging their feet by seeking more than a dozen delays for vacations and other case commitments.

"I give Judge Hollie credit for pressing prosecutors to explain why they were not ready," DiDio said.

The delays caused Lee to lose a key alibi witness - an old girlfriend who moved out of state and could not be located, DiDio claimed.

"It is clear that Mr. Lee's case, despite the severity of the charges lodged against him, has not been a priority for the prosecution or the court and the bulk of the delay plainly rests with the state," DiDio wrote.

Lee, who has a wife and children, declined comment.

"One of the main reasons for any delay is the missing witness," said a spokeswoman for **Queens District Attorney Richard Brown**.

"We moved to dismiss the case because our eyewitness became extremely uncooperative and intentionally avoided being located."